

REMARKS

Claims 1 to 3 have been amended to precisely set forth the structure of the packaging machine. These amendments are supported by the original claims and the specification of the present application, for example, by the description in paragraphs [0010], [0012] to [0013], [0016], [0017] and [0071] of the specification. Claims 4 to 7 have been canceled.

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The position of the Office is that the extent of the packaging machine of claim 1 is unclear since only method steps are set forth and the structure of the machine is not recited.

The amendments to claims 1 to 3 are believed to overcome this rejection. Amended claim 1 recites structural elements of the packaging machine.

Removal of the 35 U.S.C. 112, second paragraph rejection of the claims is believed to be in order and is respectfully requested.

Prior to discussing the prior art rejections, applicant notes that amended claim 1 recites a packaging machine including a packaging discharging unit and, in addition to the weighing bucket,

weighing load cell, and discharging chute, an opening/closing lid that opens and closes a defective item outlet in the discharging chute and a discharging guide that guides defective items to a recovery box. Amended claim 2 further recites a rotation angle adjusting means that adjusts the angles of rotation of the opening/closing lid and the discharging guide that changes the drop position for defective packaging bodies. According to amended claim 3, the rotation angle adjusting means can adjust the angle of rotation of the opening/closing lid and the discharging guide in a fixed cycle of multiple stages.

Although claims 4 to 7 have been canceled, the references cited in the rejections of these claims will be discussed herein as they may apply to the claims as amended.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Mikata et al. (U.S. Patent No. 4,813,205; hereinafter "Mikata").

Mikata discloses a device where a film is sealed by a heater, formed into a bag, cut and separated with a knife after the content is received into the bag and packaged items are sorted out as defective products with a metal detector if metal is mixed in with the contents. In addition, a device where weight sorting is carried out instead of the metal detector is disclosed. However,

Mikata does not disclose an opening/closing lid or discharging guide for the device as recited in amended claim 1 of the present application. Therefore, Mikata fails to disclose each and every element of the packaging machine of the present application and cannot support a case of anticipation under 35 U.S.C. 102(b).

Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Blodgett (U.S. Patent No. 4,164,260). As noted by the Office, Blodgett describes a weighing method and a weighing apparatus. Blodgett also notes that the method and apparatus are for controlling the weight of a product prior to packaging (Abstract). However, Blodgett does not disclose a packaging machine and fails to meet the limitations of amended claim 1 of the present application.

In Blodgett there is disclosure of an embodiment in which a bucket door opens and an excess amount of the product is discharged when the product supplied to the bucket exceeds a predetermined amount. However, this is not a discharge for defective packaged items of the product.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mikata in view of Blodgett. The position of the Office is that it would have been obvious to one of ordinary skill in the art to substitute the weighing mechanism of Blodgett for the

weighing mechanism of Mikata. However, as noted above, the weighing apparatus of Blodgett does not discharge defective packaged items of a product. Blodgett, like Mikata, also does not disclose an opening/closing lid or discharging guide. Therefore, the modification proposed by the Office will not result in the packaging machine of the present application.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mikata in view of Blodgett, as applied to the claims above and further in view of Brook (U.S. Patent No. 2,847,807). Brook is cited by the Office as disclosing a discharging chute. In Brook, an embodiment in which unwrapped tablets are detected, a trap door opened and the unwrapped tablets are discharged from a chute is disclosed. However, there is no disclosure of an embodiment in which an opening/closing lid is opened and closed with a weight load cell. Therefore, Brook does not overcome the insufficiencies of the combination of Mikata and Blodgett proposed by the Office in meeting the limitations of the packaging machine of amended claim 1 of the present application.

Removal of the 35 U.S.C. 102(b) and 35 U.S.C. 103(a) rejections of the claims is believed to be in order and is respectfully requested.

PATENT APPLN. NO. 10/583,314
RESPONSE UNDER 37 C.F.R. §1.111

**PATENT
NON-FINAL**

The foregoing is believed to be a complete and proper response to the Office Action dated May 30, 2007, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicant hereby petitions for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,

KUBOVCIK & KUBOVCIK



Ronald J. Kubovcik
Reg. No. 25,401

Atty. Case No. ABE-036
The Farragut Building
Suite 710
900 17th Street, N.W.
Washington, D.C. 20006
Tel: (202) 887-9023
Fax: (202) 887-9093
RJK/JBF